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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/006,705	12/10/2001	Eiji Ujyo	1095.1205	3637

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EXAMINER

BENGZON, GREG C

ART UNIT	PAPER NUMBER
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2144

DATE MAILED: 03/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/006,705	UJYO ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Greg Bengzon	2144	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 10 December 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This application has been examined. Claims 1-12 are pending.

#### ***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

The effective date of the subject matter claimed in the application is December 18, 2000.

#### ***Claim Objections***

Claim 1 is objected to because of the following informalities: The Examiner respectfully suggests that the clause citing 'a delivering unit for repeating delivery of each of the groups generated by the group generating unit times determined by the delivery times determining unit' may present an issue of misinterpretation due to possible grammatical error(s) in the claim language. Appropriate correction is required.

Claim 7 objected to because of the following informalities: Claim 7 cites 'a redelivering unit for redelivering a corresponding portion of a previously delivered data packet at need in the case of having received information regarding a state in which the data packet was received from a predetermined delivery destination'. The Examiner

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respectfully suggests that the claim language does not make sense, in light of the specifications. The Examiner interprets Claims 7 to read as follows:

7. The record medium according to claim 1, further storing a program for making a computer function as a redelivering unit for redelivering a ~~corresponding portion of a~~ previously delivered data packet ~~at need~~ in the case of having received information regarding a state in which the [said] data packet was [not] received from a predetermined delivery destination.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "received normally" in claim 10 is a relative term which renders the claim indefinite. The term "received normally" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Chiu et al (US Patent 6505253), hereinafter referred to as Chiu.

With respect to Claim 1, Chiu discloses a computer-readable record medium that stores a program for making a computer perform the multicast process of delivering information to a plurality of delivery destinations like broadcasting, (Column 11 Lines 15-65, Column 12 Lines 1-50, Column 3 Lines 1-15) the program making a computer

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function as: a group generating unit for generating groups including at least one data packet from a group of data packets to be delivered; (Column 13 Lines 25-40) a delivery times determining unit for determining the number of times each of the groups generated by the group generating unit is delivered; (Column 29 Lines 15-45) and a delivering unit for repeating delivery of each of the groups generated by the group generating unit times determined by the delivery times determining unit. (Column 14 Lines 1-15, Column 16 Lines 15-60, Column 34 Lines 5-60)

With respect to Claim 2, Chiu discloses the record medium according to claim 1, wherein the group generating unit determines the number of data packets included in each group according to the state of a communication line or delivery destination. (Column 13 Lines 25-40, Column 14 Lines 15-60, Column 34 Lines 1-65)

With respect to Claim 3, Chiu discloses the record medium according to claim 1, wherein the group generating unit determines the total amount of data included in each of data packets included in each group according to the state of a communication line or delivery destination. ( Column 14 Lines 15-60, Column 39 Lines 30-50)

With respect to Claim 4, Chiu discloses the record medium according to claim 1, further storing a program for making a computer function as a control information delivering unit for delivering control information necessary for exercising control in the

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case of receiving data to be delivered before delivering the data by the delivering unit.

(Column 6 Lines 50-60, Column 39 Lines 30-50)

With respect to Claim 5, Chiu discloses the record medium according to claim 4, further storing a program for making a computer function as: a congestion state measuring unit for measuring the congestion state of a system; (Column 13 Lines 40-50, Column 14 Lines 60-65, Column 15 Lines 1-65) a delivery destination number specifying unit for specifying the number of delivery destinations to which data is delivered; (Column 6 Lines 60-65) and a processing time calculating unit for referring to the congested state and the number of the delivery destinations and for calculating time needed for a process performed in the case of responses being given by the delivery destinations, (Figure 12, Column 14 Lines 1-15) wherein the control information delivering unit delivers the control information including the processing time calculated by the processing time calculating unit to help to determine waiting time before the delivery destinations responding. (Column 18 Lines 5-45, Column 39 Lines 30-50)

With respect to Claim 6, Chiu discloses the record medium according to claim 5, wherein the congestion state measuring unit measures the congestion state of a system on the basis of time needed for accessing a memory and the state of the load on a processor. (Figures 5-6, Column 21 Lines 15-40, Column 23 Lines 1-40, Column 32 Lines 60-65)

With respect to Claim 7, Chiu discloses the record medium according to claim 1, further storing a program for making a computer function as a redelivering unit for redelivering a corresponding portion of a previously delivered data packet at need in the case of having received information regarding a state in which the data packet was received from a predetermined delivery destination. (Column 13 Lines 25-40)

With respect to Claim 8, the Applicant claims a method with the same limitations as described in Claim 1. Claim 8 is rejected on the same basis as Claim 1.

With respect to Claim 9, Chiu discloses a computer-readable record medium that stores a program for making a computer perform the process of receiving data packets multicasted from a delivery source, the program making a computer function as: a control information receiving unit for receiving control information delivered from the delivery source before a data packet; a receiving preparing unit for preparing receiving the data packet according to the control information; ( Column 17 Lines 25-30) and a data packet receiving unit for receiving the data packet delivered from the delivery source after the control information. The other limitations in Claim 9 have been addressed in the rejections for Claims 1 and 4.



With respect to Claim 10, Chiu discloses the record medium according to claim 9, further storing a program for making a computer function as: a received data quality judging unit for judging whether a data packet was received normally by the data packet receiving unit; and a judgment responding unit for sending information indicative of a judgment made by the received data quality judging unit to the delivery source in the form of a packet as a basic unit for accounting. (Column 19 Lines 65, Column 20 Lines 1-15)

With respect to Claim 11, Chiu discloses the record medium according to claim 10, further storing a program for making a computer function as: a processing time extracting unit for extracting processing time the delivery source will need for processing responses given by all of the delivery destinations from the control information; (Figure 12, Column 35 Lines 65, Column 36 Lines 1-15, Column 39 Lines 30-65) and a waiting time calculating unit for calculating waiting time before the judgment responding unit responding by multiplying the processing time and a random number together. (Figure 12, Column 15 Lines 45-55, Column 18 Lines 5-30)

With respect to Claim 12, the Applicant claims a method with the same limitations as described in Claim 9. Claim 12 is rejected on the same basis as Claim 9.

### ***Conclusion***

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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Please refer to the enclosed PTO-892 form.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greg Bengzon whose telephone number is (571) 272-3944. The examiner can normally be reached on Mon. thru Fri. 8 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Cuchlinski can be reached on (571)272-3925. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

gcb

  
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